IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

FRIDAY, THE 15TH JUNE 2007 / 25TH JYAISHTA 1929

Con.Case(C).No. 677 of 2007(S)

IN WA.914/2004

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PETITIONER/IST RESPONDENT

K.M.BABY RAJAN,
JUNIOR ACCOUNTANT (RETIRED ON 31-03-04),
PALAKKAD SERVICE CO-OPERATIVE BANK,
PALAKKAD, RESIDING AT SUSHREE, MANISSERI P.O.,
OTTAPPALAM, PALAKKAD.

BY ADV. SRI.A.N.RAJAN BABU
SMT.SUNITHA VINOD

RESPONDENT/2ND APPELLANT:

P.KRISHNANKUTTY, AGED 58 YEARS,
FATHER'S NAME NOT KNOWN,
GENERAL MANAGER, PALAKKAD DISTRICT CO-OPERATIVE
BANK, PALAKKAD.

FOR RESPONDENT BY SHRI M.P. ASHOK KUMAR.

THIS CONTEMPT OF COURT CASE (CIVIL) HAVING COME UP FOR ADMISSION ON 15/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L. DATTU, C.J. & K.T. SANKARAN, J.

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CONTEMPT CASE (C) No. 677 OF 2007

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Dated this the 15th June, 2007

J U D G M E N T

H.L. Dattu, C.J.:

The first respondent in the Writ Appeal No. 914 of 2004 was the petitioner in O.P. No. 16154/2001 . In the said Original Petition, the petitioner had called in question the orders passed by the disciplinary authority by Ext.P5 order. By the said order, the disciplinary authority had imposed a punishment, by way of reversion to the post of Junior Accountant, as the juniormost incumbent in that post. The said order was questioned on the ground that the rules do not provide for imposing such a punishment.

2. The learned single Judge had disposed of the Original Petition by judgment dated 29.10.2003. In that judgment, the learned single Judge had observed that the petitioner shall suffer reversion only for a period of six months.

3. Aggrieved by the judgment of the learned single Judge in O.P. 16154 of 2001, the respondents Nos. 1 and 2 in the Original Petition had filed Writ Appeal No. 914 of 2004. A Division Bench of this court

by judgment dated 21.06.2006 had disposed of the Writ Appeal by modifying the orders passed by the learned single Judge. The modified order of the Division Bench reads as follows:

> *"The judgment of the learned single Judge to the extent it has held that the petitioner will suffer reversion only for a period of six months is therefore, set aside and we direct that the petitioner will suffer reversion for a period of two years. "*

4. After the disposal of the Writ Appeal, we are informed that the petitioner has retired from service .

5. In this Contempt case, the petitioner alleges that after the petitioner has suffered the punishment imposed by the disciplinary authority, the respondents in the Original Petition ought to have granted him notional promotion and further that arrears of salary also ought to have been paid by them. Since that is not done by the respondents, according to the counsel for the petitioner herein, the respondents have wilfully and deliberately disobeyed the orders and directions issued by this court, Therefore, a request is made to initiate contempt proceedings against the respondent herein /2nd appellant in the Writ Appeal under sections 11 and 12 of the Contempt of Courts Act read with Article 215 of the Constitution of India.

7. Shri M.P. Ashok Kumar takes notice for the respondent in this Contempt

Case.

8. On instruction, he would submit that considering the case of the petitioner, the respondent has passed an order dated 17.04.2007 informing the petitioner that he is not entitled for any monetary benefit. It is also informed to us that the said order has been communicated to the petitioner.

9. As we have already stated earlier, the Division Bench had only modified the order passed by the learned single Judge , viz, by directing that the petitioner will suffer reversion for a period of two years. The court, no where in the judgment had stated as to whether the petitioner would be entitled for notional promotion and further whether he would be entitled for payment of arrears of salary/wages, after the period of punishment imposed by the disciplinary authority.

10. The respondent, being of the opinion that the petitioner is entitled for notional promotion only and not entitled for arrears of salary since he had not worked during the pendency of the disciplinary proceedings, had passed the order dated 17.04.2007.

11. Since there is no positive direction issued by this court, we cannot say that the respondent has wilfully and deliberately disobeyed the orders and directions issued by this court. Therefore, we cannot take

cognizance of this Contempt case. Accordingly it requires to be rejected and it is rejected.

However, liberty is reserved to the petitioner, if he so desires, to question the correctness or otherwise of the order dated 17.04.2007, passed by the respondents before the appropriate forum.

Ordered accordingly.

H.L. DATTU,
CHIEF JUSTICE.

K.T. SANKARAN,
JUDGE.

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